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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,393

03/23/2004

Moriyasu Kanai

P24799

2335

7055

7590

11/14/2006

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RESTON, VA 20191

EXAMINER

PRITCHETT, JOSHUA L

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,393

Applicant(s)

KANAI, MORIYASU

Examiner

Joshua L. Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-20 and 22-27 is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to Request for Continued Examination and Amendment filed June 20, 2006. Claims 1 and 5 have been amended and claims 22-27 has been added as requested by the applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinhuber (US 5,499,066).

Steinhuber teaches an adjustment method for binocular magnifying glasses having a pair of magnifying glasses (Fig. 13) for right and left eyes (10) each of the pair of magnifying glasses having a magnifying optical system and a deflector deflecting an optical path of the magnifying optical system (Fig. 13) comprising rotating the pair of magnifying classes in direction opposite to each other using gamma-rotation (Fig. 13 dashed lines); and correcting inclination of an image, caused by the gamma-rotation, by rotating the pair of magnifying glasses in directions

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opposite to each other using the beta-rotation (col. 5 lines 48-55; Fig. 13), the gamma-rotation is about each of the axes X_L and X_R , which respectively correspond to visual axes of the left and right eyes when an object distance is infinite in a condition of a primary position, and where beta-rotation is about each of the Y_L and Y_R axis are respectively perpendicular to the X_L and X_R and perpendicular to a z-axis which perpendicularly intersects the X_L at a position of the deflector for the left eye and the axis X_R at a position of the deflector for the right eye (Fig. 13). Steinhuber lacks reference to the eyepiece inclined with respect to the objective. Farmer teaches a binocular (col. 10 lines 8-10) with each magnifying system including an objective (A') and an eyepiece system (E'), an optical axis of the objective being inclined with respect to the optical axis of the eyepiece (Fig. 4; col. 8 lines 56-63). It would have been obvious at the time the invention was made to have the Steinhuber reference include the inclination taught by Farmer for the purpose of reducing the space between the observe and the object (Farmer col. 3 lines 1-4).

Allowable Subject Matter

Claims 9-20 and 22-27 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claims 9 and 15, the prior art of record fails to teach or suggest a binocular magnifying pair for left and right eyes with a positive power in an eyepiece and a deflector including first, second, third, and fourth reflecting surfaces that has both gamma and beta rotations to satisfy the claim conditions.

Regarding claims 22-27, the prior art of record fails to teach or suggest the claimed relationships for the rotation angle in the gamma and beta directions along with the deflection angle.

The remaining claims depend from claims 9 and 15 and are allowable for the same reasons.

Claims 2-4 and 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest the claimed relationships for the rotation angle in the gamma and beta directions along with the deflection angle.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments, see Amendment, filed June 20, 2006, with respect to the rejection(s) of claim(s) 1 and 5 under Steinhuber have been fully considered and are persuasive.

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Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Farmer. Applicant argued the Steinhuber reference failed to teach or suggest the newly added inclination limitation. The Farmer reference has been added to teach the newly claimed limitation.

Conclusion

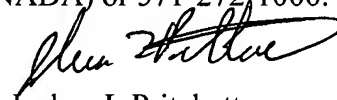
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yano (US 6,282,021) teaches the use of a eyepiece that is independently pivotable to provide an inclination between the objective and the eyepiece (Fig. 3).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Joshua L Pritchett
Examiner
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